

§ 19.239

27 CFR Ch. I (4–1–15 Edition)

delivery of the return and also of the remittance, if included.

(26 U.S.C. 6302)

§ 19.239 Form of payment.

(a) *General.* The proprietor must pay the tax due on spirits when filing a return on form TTB F 5000.24, Excise Tax Return. The remittance for the tax must accompany the return and may be in any form that is authorized by § 70.61 of this chapter and acceptable to the appropriate TTB officer. Exception: This does not apply to payments that must be made by EFT. For EFT payments see § 19.240.

(b) *Consequences of default.* If a check or money order tendered in payment of taxes is not paid on presentment, or if the taxpayer is otherwise in default in payment, then any remittance made during the period of default must be either in cash or by an acceptable certified instrument. The proprietor must continue to pay in cash or by certified instrument as long as the proprietor remains in default, and until the appropriate TTB officer finds that accepting a check will not jeopardize the revenue.

(c) *Certified instruments.* Acceptable certified instruments include certified checks, cashier's checks or treasurer's checks drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State, Territory or possession of the United States, or a money order, as provided in § 70.61 of this chapter.

(d) *Payment of taxes.* The proprietor must make checks or money orders payable to "Alcohol and Tobacco Tax and Trade Bureau".

(26 U.S.C. 5061, 6311)

§ 19.240 Payment of tax by electronic fund transfer.

(a) *General.* —(1) *Criteria requiring EFT payment.* Under certain conditions, a proprietor may not make payments by cash, check, or money order. Instead, the proprietor must use the services of a commercial bank to pay tax on distilled spirits tax by EFT. Payments must be made by EFT in the current calendar year if the proprietor, as a taxpayer, was liable for \$5 million or more in taxes on distilled spirits

during the prior calendar year. For the purpose of determining whether the proprietor is subject to this requirement, the proprietor must use the total amount of tax liability on distilled spirits incurred under this part and parts 26 and 27 of this chapter (gross tax liability). Gross tax liability includes the distilled spirits tax on all taxable withdrawals of spirits and taxable importations of spirits, as well as tax on spirits brought into the United States from Puerto Rico and the Virgin Islands during the calendar year. This figure includes taxes incurred at any and all premises at which the proprietor conducts regulated activities. The proprietor may not net out or adjust for any drawback, credits or refunds of tax that are allowed. Overpayments made in excess of actual tax liability will not be included in the gross tax liability figure.

(2) *Controlled group.* If the taxpayer is a member of a controlled group, the controlled group is treated as a single taxpayer when calculating liability of \$5 million or more in distilled spirits taxes during the prior calendar year. A controlled group is a related group of taxpayers and is defined in subpart D of part 70 of this chapter.

(3) *Separate return and payment for each DSP.* When the proprietor makes payments by EFT, the proprietor must file a separate return on form TTB F 5000.24 and make a separate EFT payment for each DSP from which spirits are withdrawn upon determination of tax.

(b) *Requirements*—(1) *Notice to TTB.* If the proprietor's gross distilled spirits tax liability is \$5 million or more in one calendar year, the proprietor must notify the appropriate TTB officer of this fact not later than January 10 of the following year. The proprietor must use the total amount of tax liability incurred under this part and parts 26 and 27 of this chapter to determine whether it must make this notification. Exception: this notice requirement does not apply if the proprietor already pays tax on distilled spirits by EFT. The notice shall be an agreement to make payments by EFT.

(2) *Separate EFT for each return.* For each return filed in accordance with this part, the proprietor will direct the